

MARKUP #1 ->

MARKUP #1 · CONFLICTS WITH MANDATORY STATE STATUTE

BOARD & COUNSEL REVIEW

Book 2537 Page 11, OR Book 2544 Page 1764, and OR Book 5432, Page 2104, all of the Public Records of Volusia County, Florida.

(b) Easement in favor of East Volusia Mosquito Control District contained in instruments recorded in OR Book 847 Page 431 and OR Book 847 Page 433, all of the Public Records of Volusia County, Florida.

(c) Easement as set out and reserved in Grant and Assignment of Easement recorded in OR Book 2119 Page 79 of the Public Records of Volusia County, Florida.

(d) Easement as set out and reserved in instrument recorded 5/8/1981 in OR Book 2525 Page 1178 of the Public Records of Volusia County, Florida.

(e) Easement contained in instrument recorded in OR Book 2265 Page 1324 of the Public Records of Volusia County, Florida.

(f) All matters set forth on plat of subdivision recorded in Map Book 43, Page 6, of the Public Records of Volusia County, Florida, including but not limited to the drainage easement as shown in plat;

(g) Flowage Easement as set forth in instruments recorded in OR Book 3419 Page 923, OR Book 3464 Page 26, OR Book 3474 Page 1404, all of the Public Records of Volusia County, Florida;

(h) Restrictions, covenants, conditions and easements, which include provisions for a private charge or assessment, as contained in the Restated and Consolidated Declaration of Covenants and Restrictions for Pelican Bay recorded 2/21/1991 in OR Book 3591 Page 1388; and Amendments filed in OR Book 4566, Page 4639, ORB 4654, Page 4913, ORB 4749, Page 4185, ORB 4900, Page 1908, ORB 4939, Page 4293, and ORB 5249, Page 4609, all of the Public Records of Volusia County, Florida.

(i) Easement in favor of TCI Cablevision contained in instrument recorded in OR Book 3646 Page 110 of the Public Records of Volusia County, Florida.

(j) Easement in favor of Bellsouth Telecommunications, Inc. recorded in OR Book 5657, Page 3068, Public Records of Volusia County, Florida.

(k) Easement in favor of Florida Power & Light Company recorded in OR Book 5867, Page 1997, Public Records of Volusia County, Florida.

Section 4. Establishment of Easements. All easements, as provided for in this Article, shall be established by one or more of the following methods, to-wit:

(a) by a designation of an easement on the recorded plat of the property;

(b) by a reservation of specific statement providing for an easement in the deed of conveyance of a given Townhome; or

(c) by a separate instrument referencing this Article V, said instrument to be subsequently recorded by the Declarant.

ARTICLE VI
ARCHITECTURAL REVIEW AND CONSTRUCTION REQUIREMENTS

Section 1. To insure that the townhomes and accessory buildings within the neighborhood are harmonious, Declarant will create an Architectural Review Committee ("ARC") to approve all construction. The ARC will have broad discretion.

Section 2. All construction, improvements, remodeling, or modification on or to a Lot, except interior alterations not affecting the external appearance of the Lot or improvements to a Lot, must be approved in advance by the ARC. This specifically includes, but is not limited to, painting or other alteration of a building (including doors, windows and trim); replacement of roof or other parts of a

Sec. 2. (p. 10): Architectural control clause unlawfully regulates interior modifications not visible from the exterior.

Statutory / Legal Reference: Fla. Stat. § 720.3035(1) & (4) (HB 1203)

Statutory Comparison: Under Fla. Stat. § 720.3035 as amended by HB 1203, an HOA may not require review or approval for interior modifications or air-conditioning systems not visible from the parcel exterior, and any denial of an architectural request must include written notice stating with specificity the rule or covenant relied upon.

CURRENT WORDING IN DOCUMENT:

All construction, improvements, remodeling, or modification on or to a Lot, except interior alterations not affecting the external appearance of the Lot or improvements to a Lot, must be approved in advance by the ARC. This specifically includes, but is not limited to, painting or other alteration of a building (including doors, windows and trim); replacement of roof or other parts of a - 9 - Inst rumentit 2006-215439 it 11 Book : 5901 Page: 2195 building, other than with duplicates of the original material; installation of antennas,

SAMPLE DISCUSSION WORDING (FOR HOA ATTORNEY REVIEW):

Pursuant to Fla. Stat. § 720.3035(1) and (4), architectural approval shall not be required for interior modifications not visible from the exterior of the structure, and any written denial must specify the exact published covenant, rule, or guideline violated.

ISSUE #1